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MAY ALLEN

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

BEAUTIFUL SLIDES, INC., a Delaware
corporation; and MITCH GRASSO, an
individual,

Plaintiffs,

v.

MAY ALLEN, an individual,

Defendant.

AND RELATED CROSS ACTION.

Case No.: 3:17-cv-01091-MMC (LB)

**DEFENDANT AND
COUNTERCLAIMANT MAY ALLEN'S
OPPOSITION TO PLAINTIFFS AND
COUNTER-DEFENDANTS' MOTION
TO AMEND COMPLAINT AND CASE
MANAGEMENT ORDER**

Date: January 26, 2018
Time: 9:00 a.m.
Courtroom: 7
Judge: Hon. Maxine M. Chesney

1 Defendant and Counterclaimant May Allen (“Allen”) opposes Plaintiffs and Counter-
2 Defendants’ (“Plaintiffs”) Motion to Amend the Complaint and the Case Management Order
3 (“Motion”) on two simple and straightforward grounds:

4 1. the proposed amendment is a sham, the sole purpose of which it avoid dismissing
5 duplicative claims, and

6 2. to amend the Case Management Order to allow Plaintiffs to amend, without
7 giving Allen the same right, is patently unfair.

8 **A. The Proposed Amended Complaint is a Sham.**

9 The Motion says the proposed amended complaint excludes from controversy all non-
10 copyright claims but it does not. In the Prayer for Relief, Plaintiffs proposed amended version
11 continues to ask for a declaration that “any rights associated with the Software asserted by
12 Defendant are invalid.” “Any rights” would necessarily include all state law claims, as well as
13 other federal law claims. Indeed, the causes of action Plaintiffs basically seek to dismiss through
14 this amendment are duplicative of the relief being sought by the surviving cause, albeit more
15 specific in each case.

16 The proposed amended complaint, if made the operative complaint by this Court, would
17 do nothing to the scope of the trial, discovery or otherwise. If Plaintiffs want to dismiss certain
18 causes of action, it’s not clear that Allen could stop them. That is not what is happening here.

19 **B. To Amend the Case Management Order to Accommodate Plaintiffs’ Desires
20 Alone is Patently Unfair.**

21 There are additional state law claims not considered by this Court via the recent Motion
22 to Dismiss, including quantum meruit claims. Allen would like to amend her Counterclaim to
23 add these additional state law causes of action, but has not asked the Court because the date to
24 amend has passed.

25 Now, Plaintiffs walk in and want to change the date for amending the pleadings to
26 accommodate their interests. If Plaintiffs are allowed to amend, Allen should also be allowed to
27 amend, period. The date shouldn’t be changed after the fact, just to accommodate one side.

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1 **CONCLUSION**

2 For the foregoing reasons, Plaintiffs' Motion should be denied. If it is granted in any
3 form, Allen should be allowed the opportunity to amend her Counterclaim to add additional state
4 law claims not yet considered by this Court, thereby permitting Allen equal access.

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6 Dated: December 28, 2017

WOOD ROBBINS, LLP

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8 By: /s/ Gregory J. Wood

GREGORY J. WOOD

9 Attorneys for Defendant and
10 Counterclaimant MAY ALLEN
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